

DIVISION 4. TAX ON LEASING OR RENTING TANGIBLE PERSONAL PROPERTY*

Sec. 30.101. Definitions.

For purposes of this division, the following terms shall have the following respective meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

***Editor's note**—Ord. No. 91-O-36, §§ 1–6, adopted Oct. 22, 1991, did not specify manner of codification; hence, inclusion herein as Div. 4, §§ 30.101–30.106 has been at the discretion of the editor.

Business means all activities engaged in, or caused to be engaged in, with the object of gains, profit, benefit or advantage, either direct or indirect, and not excepting subactivities producing marketable commodities used or consumed in the main business activity, each of which subactivities shall be considered business engaged in, taxable in the class in which it falls.

City means the City of Anniston, Alabama.

Gross proceeds means the value proceeding or accruing from the leasing or rental of tangible personal property, without any deduction on account of the cost of the property so leased or rented, the cost of materials used, labor or service cost, interest paid or any other expense whatsoever, and without any deduction on account of loss, and shall also include on the part of any person claiming exemption under Section 40-12-223(4) of the Code of Alabama, 1975, an amount equal to the rental paid on any tangible personal property acquired under such exemption and thereafter diverted to the use of such person.

Leasing or rental means a transaction whereunder the person who owns or controls the possession of tangible personal property permits another person to have the possession or use thereof for a consideration and for the duration of a definite or indefinite period of time without transfer of the title to such property. The detention by the user thereof of freight cars, oxygen and acetylene tanks and similar property, in respect of which detention a demurrage or per diem is made against the user of such property, shall not be deemed to constitute a transaction whereunder property is leased or rented to another within the meaning of this division.

Person means any natural person, firm, partnership, association, corporation, receiver, trust, estate or other entity, or any other group or combination of any thereof acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

Tangible personal property means personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other contracts or securities.

(Ord. No. 91-O-36, § 1, 10-22-91)

Sec. 30.102. License required.

If any person shall engage in or continue in any business for which a privilege tax is imposed by section 30.103 or 30.104 as a condition precedent to engaging or continuing in such business, he shall apply for and obtain from the city a license to engage in and to conduct such business for the current tax year upon the condition that he shall pay the taxes accruing to the city under the provisions of this division; provided, that no license shall be issued under the provisions of this division to any person who has not complied with the provisions of this division, and no provision of this division shall be construed as relieving any person from the payment of any license privilege tax now or hereafter imposed by law.

(Ord. No. 91-O-36, § 2, 10-22-91)

Sec. 30.103. Levy and amount of tax.

There is hereby levied and imposed by law, a privilege or license tax upon each person engaging or continuing in this city on the business of leasing or renting tangible personal property at the rate of one (1) percent of the gross proceeds derived by the lessor from the lease or rental of tangible personal property, including automotive vehicles, truck trailers, and/or

semitrailers; provided further, that the tax levied in this division shall not apply to any leasing or rental, as lessor, by the State of Alabama, or any municipality or county in the State of Alabama, or any public corporation organized under the laws of the State of Alabama, including without limiting the generality of the foregoing, any corporation organized under the provisions of Sections 11-54-80 through 11-54-101 of the Code of Alabama, 1975.

(Ord. No. 91-O-36, § 3, 10-22-91)

Sec. 30.104. Tax levied in police jurisdiction.

There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon each person engaging or continuing in the business or businesses described in section 30.103 of this Ordinance outside the corporate limits of the city, but within its police jurisdiction, at one-half the rates specified in section 30.103.

(Ord. No. 91-O-36, § 4, 10-22-91)

Sec. 30.105. Exemptions.

There are exempted from the provisions of this division and from the computation of the amount of tax levied, assessed or payable under this division the gross proceeds derived by the lessor from the lease or rental of tangible personal property:

- (1) Where are exempted from taxation under the provisions of Article 4, Chapter 12, Title 40, Code of Alabama, 1975, entitled "Tax on Leasing or Renting Tangible Personal Property," as the same is now or hereafter amended and all acts supplemental thereto except where inapplicable or where herein otherwise provided; and
- (2) Pursuant to leases or rental contracts in effect before January 1, 1992, provided that the exemption hereby afforded shall not apply to any renewal or extension of such contracts and shall not apply to gross proceeds accruing after December 31, 1993.
- (3) Where the lessor is a participating provider who rents or leases oxygen or durable medical equipment (as defined by Act 93-353, Acts of Alabama Reg. Sess.) to a recipient of benefits under the Medicare or Medicaid program under orders from a duly licensed physician, the gross receipts from such a transaction shall be exempt from the rental and leasing tax.

(Ord. No. 91-O-36, § 5, 10-22-91; Ord. No. 93-O-30, § 1, 7-27-93; Ord. No. 94-O-10, § 1, 3-8-94)

Sec. 30.106. Collection of tax.

The provisions of this division shall be administered and the tax herein levied shall be collected in accordance with the procedures set forth in Ordinance No. 91-O-13 [Division 2], known as the sales tax ordinance for administering and collecting the tax therein levied, and for such purposes there are hereby incorporated into this division by reference the provisions of sections 30.24 through 30.39, sections 30.41 through 30.47, and sections 30.49 through 30.52, together with the definitions applicable to said sections contained in section 30.21 of the

sales tax ordinance; provided, that wherever in the said provisions the term "gross proceeds of sales" or "gross receipts" shall appear, the same for purposes of this division shall be construed to mean "gross proceeds" as defined in this division; provided further, that a sale of tangible personal property to any person engaging in the business of leasing or renting such tangible personal property to others, if such tangible personal property is purchased for the purpose of leasing or renting it to others under a transaction subject to the tax levied in this division, shall be deemed to be a "wholesale" or a "sale at wholesale" for the purpose of administering the sales tax ordinance and Ordinance No. 91-O-14 known as the use tax ordinance; provided further, that a sale of tangible personal property previously purchased at wholesale for the purpose of leasing or renting under a transaction subject to the privilege or license tax levied in this division shall be deemed to be a "retail sale" or a "sale at retail" for the purpose of administering the sales tax ordinance and the use tax ordinance, regardless of whether such sale is to the person who theretofore leased or rented the said tangible property or to some other person; provided further, in the event of the repeal of the sales tax ordinance, such repeal shall not operate to eliminate the tax collection procedures contained therein to the extent they are incorporated in this article by reference, unless the ordinance providing for such repeal shall clearly indicate such a result.

(Ord. No. 91-O-36, § 6, 10-22-91)

[The next page is 1733]